

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

--oOo--

BALLY MANUFACTURING
CORPORATION,

Plaintiff,

vs.

D. GOTTLIEB & COMPANY,
WILLIAMS ELECTRONICS, INC.,
and ROCKWELL INTERNATIONAL
CORPORATION,

Defendants.

No. 78 C 2246

FILED
AUG 31 1982

+ VOLUME TWO - PAGES 96 - 164 +

DEPOSITION OF:

STEPHEN D. BRISTOW

Friday, August 6, 1982

IRVIN C. SCHEIBE
CERTIFIED SHORTHAND REPORTER
333 DELLBROOK AVE.
SAN FRANCISCO, CALIF. 94131
(415) 566-3049
C.S.R. #1237

INDEX 1801 to 1802 of 1803

WITNESS: J. J. and next read from Thursday, Aug. 11, 1941, at Page

BRISTOW, Stephen D. (Volume II) going at the hour of 4:15 p.m.

Cross Examination by Mr. Katz (Resumed) California, 98

Redirect Examination by Mr. Goldenberg of the City 161

EXHIBITS:

[Bristow Deposition] STEPHEN D. BRISTOW,

201101 Sketch made by the witness Janta, WPD, having been 135

[illegible]

FITCH, EVEN; TADIN, ^{note} ICEE ^{not} games, 135 North
Street, Suite ^{Eisen} 606, Chicago, Illinois 60602, ^{not} Eisner
A. SIDNEY KATZ, Esquire, and JOSEPH B. SCHNAIFER, Esquire,
appeared as counsel on behalf of the Plaintiffs.

1 BE IT REMEMBERED that, pursuant to Notice of Taking
2 Deposition, and continued from Thursday, August 5, 1982, and
3 on Friday, August 6, 1982, commencing at the hour of 8:55 a.m.
4 at the Hilton Inn, Room 9, San Francisco Airport, California,
5 before IRVIN C. SCHEIBE, a Notary Public in and for the City
6 and County of San Francisco, State of California, again person-
7 ally appeared

8 STEPHEN D. BRISTOW,

9 called as a witness by the Defendants, who, having been
10 previously duly sworn, was further examined and testified as
11 hereinafter set forth.

12 --o0o--

13 FITCH, EVEN, TABIN, FLANNERY & WELSH, 135 South LaSalle
14 Street, Suite 900, Chicago, Illinois 60603, represented by
15 A. SIDNEY KATZ, Esquire, and JEROLD B. SCHNAYER, Esquire,
16 appeared as counsel on behalf of the Plaintiffs.

17 ARNOLD, WHITE & DURKEE, 400 One Bering Park, 750
18 Bering Drive, Houston, Texas 77057, represented by WAYNE M.
19 HARDING, Esquire (not present), counsel on behalf of the Defen-
20 dants D. Gottlieb & Company and Rockwell International
21 Corporation.

22 McDOUGALL, HERSH & SCOTT, 135 South LaSalle Street,
23 Chicago, Illinois 60603, represented by MELVIN M. GOLDENBERG,
24 P.C., appeared as counsel on behalf of the Defendant Williams
25 Electronics, Incorporated.

26 TOWNSEND & TOWNSEND, One Market Plaza, Steuart Street
27 Tower, San Francisco, California 94105, represented by WARREN P.
28 KUJAWA, Esquire, appeared as counsel on behalf of Atari, Inc.

1 and the witness.

2 MR. GOLDENBERG: I would like the record to show
3 that it is now by my watch 8:55 and we had agreed to start
4 this deposition at 8:30 and that was at the suggestion and
5 with agreement of counsel for the Plaintiff.

6 MR. KATZ: I would like the record to show that I
7 stated yesterday that if we started in the city it would be
8 at 8:30, we would agree to the 8:30 starting time, but if it
9 was here we would start at 9:00 o'clock.

10 When Mr. Goldenberg called me late last night I told
11 him, I reminded him that he said that he made it at 8:30 and
12 I should try to get here as close to that time as I could,
13 and I told him I would try, even though I stated yesterday
14 that if we were doing it at the airport after we got a hotel
15 room in the city, and I told him that we would start at the
16 airport at 9:00, he still insisted on going forward at 8:30
17 and making such arrangements. I'm sorry about that.

18 MR. GOLDENBERG: I don't think that is the under-
19 standing of anybody else in the room about the agreement of
20 the starting time.

21 MR. SCHNAYER: That is my understanding.

22 MR. KUJAWA: It's not mine. My understanding was
23 8:30 regardless of site.

24 MR. KATZ: You must have done that after Mr. Schnayer
25 and I left the room yesterday because you were still talking.

26 MR. KUJAWA: That was not after you left the room.
27 The witness so understood and I understood. We have been here
28

1 since 8:30. *Is there anything owned by you?*

2 A. MR. KATZ: The witness came almost a half hour late
3 for the beginning yesterday. It was supposed to start at 2:00
4 o'clock and it didn't start until 2:30.

5 Q. MR. KUJAWA: He actually arrived right at 2:15.
6 The witness was there but it was my duties, emergency phone
7 calls, that kept us the 15 minutes late. *Now line of inquiry*
8 *as having* MR. KATZ: Well, I would suggest we don't waste any
9 more time and we proceed. *at this time.*

10 MR. KATZ: You raise --o0o-- in direct.

11 Q. Is Key CROSS EXAMINATION BY MR. KATZ (Resumed)

12 A. MR. KATZ: Q. Mr. Bristow, you realize you are still
13 under oath. *do you know if it was ever acquired by Atari?*

14 A. Yes. *my understanding it was acquired by Atari.*

15 I do. Q. *Yesterday at the beginning of the deposition you*
16 referred to your employer as Key Games during the period from
17 October '73 through October or November of '74. Was Key Games
18 a corporation? *now it was in the fall of 1974.*

19 A. Yes. *that prior to the acquisition of Atari by Warner?*

20 Q. Who owned Key Games?

21 A. I'm not sure of the total mix of ownership. *ac* I believe
22 Atari had some ownership and there was some stock either optioned
23 or distributed among some of the employees.

24 Q. So you were vice president of engineering at that
25 time? *this is relevant to the issues?*

26 A. Yes. *if you right now, sir, if you continue I will*

27 *to a* Q. *And you believed that some stock was owned by Atari?*

28 A. Yes.

1 Q. Was some stock owned by you?

2 A. No. Q. Mr. Katz, I have asked you a question

3 Q. Was some stock owned by Mr. Joe Keenan? Direct.

4 A. I don't know. No, sir, I did not.

5 Q. Was any stock owned by Al Alcorn? Is about 10 lines

6 A. I don't know.

7 MR. GOLDENBERG: I object to this line of inquiry
8 as having nothing to do with the issues in which the court
9 has permitted examination at this time. Is about to adjourn

10 the deposition MR. KATZ: You raised it on direct.

11 Q. Is Key Games still in existence? my questioning.

12 A. I don't know. G: The deposition is adjourned.

13 Q. Do you know if it was ever acquired by Atari?

14 A. It's my understanding it was acquired by Atari. The is.

15 I don't know whether they left the corporate shell intact or
16 not. MR. KATZ: I want to continue my cross examination

17 Q. Do you know when that occurred? I have been on direct

18 exam. A. I believe it was in the fall of 1974. All.

19 Q. Was that prior to the acquisition of Atari by Warner?

20 A. Yes. KATZ: I would instruct the witness to leave

21 the Q. Do you know when that occurred, that Atari acquisition
22 by Warner? MR. GOLDENBERG: Are we going to resume it?

23 A. In October or November of 1976.

24 MR. GOLDENBERG: Mr. Katz, would you please tell
25 me how this is relevant to the issues?

26 I tell you right now, sir, if you continue I am going
27 to adjourn the deposition and we are going to go to court about
28 it. involved with at Key Games who were at the time of the

1 MR. KATZ: (No response.)

2 MR. GOLDENBERG: Mr. Katz, I have asked you a question.

3 MR. KATZ: I told you, you raised it on direct.

4 MR. GOLDENBERG: No, sir, I did not.

5 MR. KATZ: You spent a considerable amount of time
6 on Key Games.

7 MR. GOLDENBERG: No, sir, I did not. I did not.

8 MR. KATZ: You could sit there and call white black.

9 MR. GOLDENBERG: Mr. Katz, I am about to adjourn
10 the deposition and go in to find a judge.

11 MR. KATZ: I am going to continue my questioning.

12 MR. GOLDENBERG: The deposition is adjourned.

13 MR. KATZ: I am retaining the court reporter now
14 at my expense to continue my cross examination of this witness.

15 MR. GOLDENBERG: No, sir. You cannot do that.

16 MR. KATZ: I want to continue my cross examination
17 into the areas that have been opened up and have been on direct
18 examination and I am going to continue doing that.

19 MR. GOLDENBERG: No, sir. The deposition is adjourned.

20 MR. KUJAWA: I would instruct the witness to leave
21 the room at this time.

22 MR. GOLDENBERG: Are we going to resolve it?

23 MR. KATZ: Resolve it in what way?

24 MR. GOLDENBERG: That you withdraw this line of
25 questioning.

26 MR. KATZ: For the purpose of being expeditious I
27 am going to ask him only some questions about people who he
28 was involved with at Key Games who were at the open house or

1 these other visits and trips of his and those are directly
2 related to the issue. This is strictly background. It's the
3 same kind of background that you went into on your direct and
4 it's the background for the people who he was traveling with
5 at the visits at Cyan and will be relevant to the question
6 as to whether that -- so we can test the credibility of the
7 witness.

8 I see the witness is leaving the room.

9 MR. KUJAWA: He hasn't left yet.

10 MR. KATZ: Well, I'm telling you that these are all
11 relevant things.

12 This is the end of my inquiry in the relationship
13 between --

14 MR. GOLDENBERG: May I say something? Mr. Katz,
15 I asked no questions about stock ownerships, about acquisitions,
16 about the existence or non-existence of corporations.

17 If you want to ask about people and whether or not
18 they were familiar with the El Toro game and the events in
19 Grass Valley, I have no objection to that. That's not what
20 you are doing. What you are doing in my view is harassing,
21 deliberately prolonging for some purpose this deposition by
22 going into matters which are not relevant to the issues that
23 we have in front of us, which are not relevant to the issues
24 about which the judge said we could inquire, and you are doing
25 this in my view to harass the witness and his employer.

26 MR. KATZ: Well, you are wrong, Mr. Goldenberg.

27 MR. KUJAWA: I fail to see the relevancy of this,
28 the stock ownership questions.

1 MR. KATZ: I am just establishing some background
2 here. I see some relevance. The relevancy is to cross-examine
3 in the area of --

4 Q. We don't have to discuss it any more because I won't
5 ask any more questions about it.

6 MR. KUJAWA: Okay. With that understanding, I will
7 ask the witness to retake his seat.

8 MR. GOLDENBERG: On that basis, the deposition may
9 continue. Yes.

10 Q. MR. KUJAWA: Try to keep it on track.

11 MR. KATZ: (To the reporter) Now you will be billing
12 this to Mr. Goldenberg.

13 Q. Now, I may ask some questions about Key Games insofar
14 as they are mentioned on documents that have been produced
15 by Atari and with respect to the people who Mr. Bristow came
16 to on his visits to Cyan with --

17 A. MR. KUJAWA: Get on with the questions, Counsel.

18 Q. MR. KATZ: I'm just telling you that this is relevant.

19 Q. Did you report directly to Joe Keenan?

20 A. Yes.

21 Q. Do you know where Joe Keenan is employed today?

22 A. Yes.

23 Q. Where is that?

24 A. Pizza Time Theater, Incorporated.

25 Q. Where is that located?

26 A. I believe it's on Innisbrook Drive in Sunnyvale,
27 California.

28 Q. When you made visits to Cyan that you referred to

1 in your previous testimony, did you ever keep any records of
2 those trips? Specifically to them, no.

3 A. No. Did you make them to?

4 Q. Did you ever fill out any trip reports?

5 A. I may have. I don't remember any in particular.

6 I didn't make a record of every trip I made up there. I think there

7 b t Q. Was there a practice at Key Games of having records
8 for expenses of employees who went on trips? Yes.

9 A. Yes. In at least projects being worked on.

10 Q. Did you have a practice of maintaining those records
11 for the trips that you made? Yes.

12 A. If I spent money. Is the status of projects being

13 work Q. Then you would fill out this record?

14 A. Yes. I may have from time to time.

15 Q. Did you have a practice of making records of the
16 amount of time you spent on projects at Key Games?

17 A. No. They included such reports of the status of

18 work Q. Was there a general practice at Key Games for employees
19 to fill out time cards or time records?

20 A. For the hourly or production employees, I believe
21 they did. I don't remember filling out time cards.

22 Q. Did you ever have a practice of making or preparing
23 reports to Atari on projects that were -- or to Nolan Bushnell
24 or anyone else at Atari on the work that you were doing when
25 you were at Key Games? I see Cyan information out of the blue.

26 I do. A. No. I put them together.

27 Q. Did you ever make any reports to anyone at Atari
28 during the time you were at Key Games with respect to the work

1 that you were doing?

2 A. Not specifically to them, no.

3 Q. Who did you make them to?

4 A. Joe Keenan.

5 Q. And what form did those reports take?

6 A. I'm not sure they started initially when I got there

7 but into '74 they were in weekly reports.

8 Q. What did those weekly reports include?

9 A. Status of the projects being worked on.

10 Q. By whom?

11 A. The people at Key Games.

12 Q. Did they ever include the status of projects being
13 worked on by people at other places?

14 A. They may have from time to time.

15 Q. Did they ever include the status of work at Cyan?

16 A. They may have.

17 Q. When they included such reports of the status of
18 work at Cyan --

19 A. MR. KUJAWA: If they did.

20 Q. MR. KATZ: Q. If they did, who provided that infor-
21 mation for such reports?

22 A. I wrote the reports.

23 Q. So you provided the information?

24 A. That's not a very answerable question. I wrote the
25 reports. I didn't provide Cyan information out of the blue.

26 I talked to people up there together.

27 Q. Right. Was that information primarily gathered from
28 the people verbally at Cyan and through the weekly status reports

1 that you testified that you received from them?

2 A. Yes.

3 Q. Did you keep any type of diary with respect to the
4 work that you did and where you went, your appointments and
5 so on, with respect to the time period while you were working
6 at Key Games?

7 A. Not a diary. I'm sure I had a desk calendar that
8 I made notes on trips and travel in and appointments.

9 Q. Do you still have those desk calendars?

10 A. No.

11 Q. You don't have any idea of what happened to them?

12 A. I usually tossed them out shortly after the start
13 of the year, the old one.

14 Q. Do you know where your calendar is for 1974?

15 A. No.

16 Q. Do you know whether it's in existence or not?

17 A. No.

18 Q. Do you recall throwing out your calendar for 1974?

19 A. Not specifically.

20 Q. Do you have any recollection as to how or what
21 happened to it, what its disposition was?

22 A. I don't have any specific recollection. I'd say
23 my practice is when the year is over to throw away the old
24 calendar and put a new one on the desk.

25 Q. These weekly status reports that you wrote to Joe
26 Keenan, do you know what he did with those reports?

27 A. No.

28 Q. Did you ever have occasion to see those reports again

1 after once given to Joe Keenan?

2 A. Yes.

3 Q. When was that?

4 A. Well, I kept a copy, he got one and I believe he
5 distributed them within Key Games. So I saw them from time
6 to time on the desk of the v.p. of finance or the manufacturing
7 v.p. at Key Games got it. Those would be the times I would
8 have seen it.

9 Q. Did you maintain a file in 1974 of those weekly
10 reports?

11 A. I believe I did.

12 Q. When you left Key Games to go to Atari, work at Atari,
13 did you take that file with you?

14 A. I believe so.

15 Q. Do you still have that file?

16 A. I have as much-- I would not have thrown it away.
17 I believe I do.

18 Q. Do you have that at your offices at Atari?

19 A. I don't know.

20 Q. Is it your best belief that you would have them in
21 your office at Atari?

22 A. It is either in my office, in the documents storage
23 center or in conjunction-- I know some of the reports have
24 been gone through for this litigation. So I don't know what
25 the lawyers have got, what's in the files and what's where.
26 But...

27 Q. With respect to the weekly status reports that you
28 received from Cyan, did you also maintain a file of those?

1 A. Yes.

2 Q. And when you left Key Games and went to work for
3 Atari did you take that file with you also?

4 A. I believe so.

5 Q. Do you have those files still?

6 A. I believe they still exist.

7 Q. If you were to want to locate those files, where
8 would you look?

9 A. First in my desk, second in my file cabinets, third
10 I'd check with my secretary, fourth I'd check with the Atari
11 documents storage thing, if they put some in storage, and then
12 find out which of the lawyers have them.

13 Q. Would you go through that same procedure with respect
14 to the Key Games weekly reports?

15 A. Yes.

16 Q. With respect to the documents that you mentioned
17 relating to expense records, did you ever maintain copies of
18 those?

19 A. No.

20 Q. What was the disposition of those records when they
21 left your hands?

22 A. When I filled them out they were turned in to the
23 accounting office who then sent you checks back.

24 Q. Sent to where? Excuse me.

25 A. Sent you the check back to reimburse you for the
26 expense.

27 Q. Oh, sent you the checks back. Did you ever keep
28 any record other than that of the expenses that you incurred

1 in connection with trips during 1974?

2 A. No, not to my knowledge.

3 Q. Those expense records for those trips, from your
4 recollection did they disclose the date that the expense was
5 incurred?

6 A. Yes.

7 Q. And the purpose for the expense?

8 A. In general.

9 Q. Would they indicate when you incurred expenses in
10 going up to Cyan?

11 A. If that was the trip that I had gone on and spent
12 money and filled out the form for, yes.

13 Q. Do you know if the same sort of expense records were
14 used for other employees who had gone out and made expenses
15 on behalf of the company?

16 A. I believe it was.

17 Q. Is it your understanding that the general practice
18 for all the employees with respect to those records, the expense
19 records, was to turn them in to the accounting department?

20 A. Yes.

21 Q. Do you know where those accounting records are now,
22 those expense records that were turned in to accounting?

23 A. No.

24 Q. If you were to want to find such documents, where
25 would you look for them?

26 A. In our accounting department.

27 Q. The Atari accounting department?

28 A. Yes.

1 Q. Who would you ask with respect to locating such
2 documents?

3 A. I'm not sure right now. I would have to check the
4 phone book and find out who is doing what in accounting now.

5 Q. Do you know what the practice is at Atari with respect
6 to retention of accounting documents?

7 A. No.

8 Q. Is there a document storage area at Atari?

9 A. I believe so.

10 Q. Do you know where that is located?

11 A. No.

12 Q. Do you know what city it is located in?

13 A. No.

14 Q. Have you ever had occasion to call the document storage
15 area of Atari in the last year or so?

16 A. No.

17 Q. What is your understanding of what documents are
18 stored in the document storage area of Atari?

19 Q. MR. GOLDENBERG: Objection; foundation. You haven't
20 established that this witness has any understanding of that
21 matter.

22 MR. KATZ: Q. Do you have any understanding or belief
23 or any idea about what is in the document storage area?

24 A. I believe they store legal records, financial data
25 for the IRS, and you can request them to store documents that
26 you have run out of room for. They will keep them for you.

27 Q. Sort of an archival type storage; is that right?

28 A. Yes.

1 Q. Have you ever requested that any documents be stored
2 in that archival document storage area?

3 A. Not directly but through my secretary.

4 Q. When was that?

5 A. I don't remember the particular time.

6 Q. Within the last year?

7 A. I don't think within the last year. Sixteen months
8 ago or something when I moved offices I put some in storage.

9 Q. What kind of documents were they, do you recall?

10 A. Just old files on games. Miscellaneous stuff out
11 of my desk. I was running out of room to store things.

12 Q. Were any of the documents in the categories or the
13 types of documents that we have just been discussing?

14 A. I don't know.

15 Q. When you were working at Key Games and had occasion
16 to take a trip, for example, to Cyan and you would drive, did
17 you make out a mileage trip expense?

18 A. I don't know. I may or may not have.

19 Q. Do you recall ever doing that, making out a mileage
20 trip expense?

21 A. We had company cars and I believe we had company
22 credit cards at the time, so if we drove and I just spent for
23 gas I would have made no expense records because I would have
24 spent no money. If I had driven my personal car and used my
25 personal credit card, I believe I would have. But I think
26 my practice would have been to put the miles on the company
27 car.

28 Q. When you would make such a trip did you ever have

1 to or did you ever make a record that you were making that
2 trip?

3 A. I don't believe so.

4 Q. Would the Key Games weekly status reports reflect
5 trips that were made to Cyan?

6 A. They may have, if there was something in particular
7 to report.

8 Q. When you made trips to Cyan did you more often than
9 not have something particular to report?

10 A. I really can't remember.

11 Q. And with respect to my last question I was talking
12 about 1974.

13 A. I understand.

14 Q. Do you recall whether you ever reported in a Key
15 Game weekly report anything about the El Toro project?

16 A. I don't specifically remember it. I may have.

17 Q. Do you recall whether you ever put anything in a
18 report about your observation of the El Toro game as you
19 testified yesterday in connection with seeing it at the Cyan
20 facility and operating there anyplace in the Cyan facility
21 or in the Litton building?

22 A. I may have. I don't specifically remember doing it.

23 Q. Who received copies of these weekly reports as distri-
24 buted by Joe Keenan?

25 A. I don't know all the people he may have sent copies
26 to. I believe it included the v.p.'s at Key Games.

27 Q. Who were those people?

28 A. Gilbert Williams was v.p. of manufacturing. William

1 White was v.p. of finance. I'm not sure if we had any other
2 vice presidents at that early date.

3 Q. How about engineers that worked under you, were there
4 any engineers that worked under you? You were the vice president
5 of engineering, weren't you?

6 A. Yes.

7 Q. Did you have engineers working under you?

8 A. In 1974?

9 Q. In 1974.

10 A. Yes.

11 Q. Who were they?

12 A. Lyle Rains.

13 Q. R-a-i-n-s?

14 A. I believe so. ^{Sauter} Wayne ~~Setter~~. Howard Wolfe. Eli
15 Sachel, S-a-c-h-e-l, I believe. It's an Israeli name.

16 Q. This was in '74? or planning around at Atari?

17 A. Yes. That's all the ones I remember currently.

18 Q. Are any of these people still employed at Atari to
19 your knowledge?

20 A. Yes.

21 Q. Which ones?

22 A. Mr. Rains and Mr. ^{Sauter} ~~Setter~~.

23 Q. Are they employed at Sunnyvale?

24 A. I believe so.

25 Q. Do you know where Mr. Wolfe is?

26 A. No.

27 Q. Or Mr. Sachel?

28 A. No.

1 Q. Do you recall occasions during 1974 when the Cyan
2 people would come to Atari to visit for meetings?

3 A. Yes. I wouldn't say.

4 Q. Were there such things as so-called planning meetings
5 at Atari during '74?

6 A. I believe so.

7 Q. Was it the practice that people from Cyan would come
8 there for those planning meetings?

9 A. Yes.

10 Q. Did you have a practice of also going to Atari for
11 such planning meetings?

12 A. Yes.

13 Q. Do you have any specific recollection of any parti-
14 cular planning meeting in 1974?

15 A. It's hard to separate. We tended to have or try
16 to have these brainstorming or planning meetings at least a
17 couple of times a year. We continued the practice. It's just
18 since the beginning, always, now and probably in the future.
19 So it's hard to separate a specific planning meeting out.

20 Q. They tend to blend together to you?

21 A. It's a long series.

22 Q. How frequently were they held?

23 A. I'd say roughly every six months.

24 Q. Were they generally in the nature of brainstorming
25 sessions for new game ideas and game corrections and so on?

26 A. Yes.

27 Q. When you had such a brainstorming or planning meeting
28 at a particular time at Atari, would it generally be your

1 practice to then not make a trip to Cyan in, let's say, the
2 same week? a look at it and see if you have ever seen that

3 A. I really couldn't say.

4 Q. Do you have any recollection of any time where you
5 would have made a trip from Key Games -- this is in '74 --
6 to Cyan in the same week that you would have had a planning
7 meeting at Atari? ex. 318, June 4, 1974. Do you recall that?

8 A. I just don't remember. I see in this document which

9 says, Q. So Could that have occurred? meeting. May 31st to June

10 1, 1974. A. It could have occurred.

11 Q. How did you plan your visits to Cyan? Was there
12 some basis for your planning? We talked about this yesterday
13 in terms of that you did it frequently but irregularly.

14 A. There was no particular basis for planning. It was
15 when they wanted to show something or we were curious about
16 what was going up or it was more when the occasion arose, I
17 guess, and it was also tempered by our schedule and their
18 schedules up there as far as finding appropriate time.

19 Q. Do you recall ever going up to Cyan for a visit during
20 the same week that you were at a planning meeting at Atari
21 where the Cyan people were present? ex. 318, June 4, 1974.

22 MR. KUJAWA: You have already asked that question.

23 THE WITNESS: Yes, you already asked me that question.
24 I don't really recall any specific instance, but it could have
25 happened. ex. 318, June 4, 1974.

26 MR. KATZ: Q. I show you a document which has been
27 marked in previous depositions as Deposition Exhibit GD20,
28 which is a copy of the document that was produced to us by

Atari's counsel in connection with these proceedings and ask you to take a look at it and see if you have ever seen that document before?

A. It looks familiar.

Q. Do you believe you received a copy of that?

A. Yes.

Q. You note the date, June 4, 1974. Do you recall this planning meeting that is referred to in this document which says, "Subject: Summary of planning meeting, May 31st to June 1, 1974"?

A. I don't remember the specific meeting.

Q. Do you recall where that meeting occurred?

A. No.

Q. Do you recall whether it occurred at Atari?

A. No.

MR. GOLDENBERG: Excuse me just a moment. Did the witness say that he did not recall that specific meeting? MR. KUJAWA: Yes. MR. GOLDENBERG: Then I think those next questions are out of order, sir. The witness doesn't remember the meeting.

MR. KATZ: Q. Do you have any recollection at all, of the meeting?

A. I have a recollection of these subjects and maybe discussions on them. I don't specifically remember this particular meeting. I just don't remember this particular meeting.

Q. And this is a meeting in the summer of 1974.

MR. GOLDENBERG: That's what the document says.

THE WITNESS: Your document says June 4, so I would

1 assume it was, yes.

2 MR. KATZ: Q. And you remember nothing about that
3 meeting. Were you at the meeting?

4 A. I don't know. I just don't remember whether I was
5 there or not.

6 Q. Did you have a practice of attending planning meetings?

7 A. I tried to if I could.

8 Q. Were these planning meetings normally held at Atari
9 in Los Gatos?

10 MR. GOLDENBERG: Asked and answered.

11 THE WITNESS: They were held in various locations.

12 MR. KATZ: Q. Which of various locations?

13 A. I remember sessions at Larry Emmons' house up in
14 Grass Valley. At a hotel room in Los Gatos. At Nolan Bushnell's
15 house. Being in a planning meeting or not. I remember there
16 were Q. During 1974?

17 A. I'm not sure of the distribution of the locations
18 in 1974. I'm just saying there were a series of them that
19 were held --

20 Q. Do you have any --

21 MR. KUJAWA: Let him answer the question, will you,
22 Counsel? He was a freelance industrial designer.

23 THE WITNESS: They were held in various locations.

24 MR. KATZ: Q. Do you have any belief as to -- you
25 have no recollection of this meeting whatsoever; is that correct?
26 The meeting referred to in this document?

27 MR. KUJAWA: Counsel, he said he had no specific
28 recollection of that meeting.

1 A. MR. KATZ: I'm asking for any recollection of it.

2 Q. THE WITNESS: I have no specific recollection of
3 that meeting. I have recollections of the subjects, you know,
4 because they were ongoing projects and I can't single out that
5 particular meeting from the -- I guess the continuum of work
6 and discussion that was going on in those subjects.

7 MR. KATZ: Q. Do you recall the subject at a planning
8 meeting where there was a discussion where a pinball machine
9 was involved and there was a discussion or the prospect for
10 tooling to produce a prototype rotationally molded cabinet
11 for a pinball machine? item on this memorandum it says, "The

12 need A. Could you repeat that question? Cyan and Key was
13 emphasized (Pending question read.) Jim Herb's efforts was

14 discussed. THE WITNESS: As I said, I don't remember specifically
15 something being in a planning meeting or not. I remember there
16 were many discussions on doing this rotationally molded pinball
17 cabinet and tooling it. the subject of communication coming up
18 in various MR. KATZ: Q. Do you recall a person by the name
19 of Jim Kelso? at any planning meeting in particular.

20 A. Yes. was the substance of those discussions?

21 Q. Who was he? discussions, sir?

22 A. He was a freelance industrial designer. but something a

23 Q. Did Atari ever employ him to do any industrial designs?

24 A. I believe they did. that Key Games was having Jim Herb

25 Q. Did they have anything to do with the pinball machines?

26 A. As I remember, he was doing a design for a rotationally
27 molded free-form sort of pinball cabinet. that one of us did

28 Q. Did he ever complete that design? prior to the

1 A. I believe he delivered a sample.

2 Q. Do you know what the disposition of that project
3 was?

4 A. We never produced that design.

5 Q. Do you know what the basis for that was?

6 A. I believe it was due to the fact it was a low, not
7 a high, cabinet design and it would be difficult to put in
8 mass production. It looked very different. It may have looked
9 too different. We decided to go with the wide body play field
10 in our first design which that cabinet didn't accommodate.

11 Q. In this last item on this memorandum it says, "The
12 need for cross communication between Atari, Cyan and Key was
13 emphasized. The need to coordinate Jim Hebb's efforts was
14 discussed. Nolan promised to act on that."

15 Q. Do you recall ever having that the subject of a plan-
16 ning meeting?

17 A. I remember the subject of communication coming up
18 in various discussions. I do not specifically remember it
19 being raised at any planning meeting in particular.

20 Q. What was the substance of those discussions?

21 A. Of which discussions, sir?

22 Q. The discussions you just referred to about communica-
23 tions between Atari, Cyan and Key?

24 A. The situation was that Key Games was having Jim Hebb
25 do some design for controllers and Atari was also having Jim
26 Hebb do some work and we were both drawing upon his time.
27 There was a continuing problem making sure that one of us didn't
28 step on the other's toes as far as scheduled, prioritizing his

time, or duplicating his efforts.

Q. And Jim Hebb was employed by Eigan Systems in Grass Valley in 1974; is that correct?

A. I believe he was a principal of it.

Q. Do you know who else were principals, whether any other people who were principals of Eigan Systems?

A. I don't know.

Q. Did you have any understanding as to who else was the principal in Eigan Systems?

A. I believe that John Sperry was.

Q. Anybody else? were a number of people from Atari

A. Not that I believe, no.

Q. Did you ever hear that anybody else was?

A. I don't remember.

Q. Did you have any understanding?

A. I -- and the people at Cyan?

MR. GOLDENBERG: The question has been asked and answered. Do you know who was responsible for organizing that?

THE WITNESS: No.

MR. KATZ: Q. When you were employed at Key Games you said on direct examination that was a physically different building than the Atari building although it was in Los Gatos; is that correct? That was my understanding of your testimony.

A. I do't believe I said they were in Los Gatos because they weren't. I believe, I believe, was the top man there.

Q. They were located in Santa Clara and Atari was in Los Gatos at that time?

A. Yes.

1 Q. About how many employees did they have at Key Games
2 in Santa Clara at that time in 1974?

3 A. Well, we started with two people in the end of '73.
4 So the number changes throughout the year.

5 Q. Let's say when you left in October-November of '74,
6 approximately.

7 A. My guess is there were 100 or 150 people.

8 Q. Now, in yesterday's testimony you indicated that
9 on this occasion when you were at Cyan when you saw the converted
10 El Toro machine in the Litton lunchroom area, that that was
11 an occasion where there were a number of people from Atari
12 there; is that correct?

13 A. I believe there were, yes.

14 Q. And that it was your understanding that there was
15 a purpose for promoting the social relationship between the
16 people at Atari and the people at Cyan?

17 A. Yes.

18 Q. Do you know who was responsible for organizing that?

19 A. No.

20 Q. Who set it up?

21 A. No.

22 Q. Do you know who was in charge there?

23 A. In charge at Cyan?

24 Q. Yes.

25 A. Larry Emmons, I believe, was the top man there.

26 He and Steve Mayer I think were. One was on top or they were
27 both co-bosses. I'm not sure.

28 Q. Now, I wasn't sure from your testimony yesterday:

1 Did you have any recollection of seeing the teletype machine
2 on that occasion in the lunchroom?

3 A. I believe the machine was sitting there.

4 Q. In the lunchroom area?

5 A. Yes.

6 Q. And is it your recollection it was connected to the
7 El Toro? I realize these are hard things to recall.

8 A. Yes. I mean, I'm not particularly sure whether the
9 connector in back was plugged in or not.

10 Q. Is it your recollection it was sitting in proximity
11 to it?

12 A. Yes.

13 Q. Adjacent to it?

14 A. Yes.

15 Q. Do you recall where, in front or on the side?

16 A. I don't believe it was in front because you couldn't
17 have walked up to the game. I believe it was probably on the
18 left side.

19 Q. Where is your recollection that the Intellec was
20 placed?

21 A. I believe it was also on the left side.

22 Q. And you recall it was on a cart; is that right?

23 A. A cart or table. I believe it was like a gray steel
24 cart because it was, you know, being moved around the lab at
25 various times, as I understand it.

26 Q. Did you ever see anybody in 1974 at Cyan actually
27 using the teletype machine?

28 A. I believe so.

1 Q. Who was that?

2 A. Steve Mayer for sure. I believe Ron Milner joined
3 at that time, and he was also one of the people who would use
4 it.

5 Q. Did you ever see anybody else use it?

6 A. I don't specifically remember, no.

7 Q. How about the Intellec-4?

8 A. What about it?

9 Q. Did you ever see anybody using that?

10 A. Yes.

11 Q. In 1974 at Cyan who were they, the same people?

12 A. The same people and I don't specifically remember
13 him using it but the technicians there would be people I would
14 classify as users. Lanny Netz. I'm not sure who else was
15 the technician at that time.

16 Q. Did you know who the programmer was there?

17 A. I forget if they had a separate programmer or what
18 his name was. I know we ended up getting various people up
19 there. I'm not sure if Joel Miller was up there. I'm trying
20 to remember. It's been so long ago. But Steve and Ron were
21 both doing programming themselves also.

22 Q. Do you have any understanding as to who did the
23 program for the converted El Toro pinball machine that we have
24 been talking about?

25 A. I'm not sure whether it was a single or multi-person
26 effort. Steve had his hand in it and I believe Ron did. I
27 don't know who else did either some of the work or more of
28 the work. I don't know.

1 Q. Do you know anybody else that did work on the
2 programming of that specifically?

3 A. Not specifically, no.

4 Q. Was Joel Miller an employee up there?

5 A. I believe he was at one time, yes.

6 Q. Do you know when that was?

7 A. I believe it was in the early days. It may have
8 been that time frame. I understand he left and he came down
9 -- he was also at Atari and he left and he is currently back
10 at Atari. So he's come and gone quite a bit.

11 Q. Is he employed at Atari now?

12 A. I believe he is.

13 Q. In Sunnyvale?

14 A. Yes.

15 Q. Do you know what his function was up there?

16 A. No. Miller?

17 Q. Do you know?

18 A. I really don't.

19 Q. But if I inadvertently start asking you a question
20 before you are done I apologize. I'm trying to move this fast.

21 A. So if you have more to your answer, just tell me
22 and I will stop and you can finish your answer.

23 A. I won't be shy.

24 Q. Do you recall when he was there, when Joel Miller
25 worked at Cyan?

26 A. No. I am saying he came and went and I believe it
27 was towards the early -- I believe it was in the early time
28 frame, like '73, '74, but I just don't have a real strong

1 recollection.

2 Q. Do you have any belief or understanding as to what
3 his expertise was?

4 A. He was more like a technician, jack of all trades,
5 and then he ended up doing technical manual writing. Besides
6 changing locations he's changed jobs quite a bit over time.

7 Q. If he were an employee of Cyan, should there be records
8 relating to Joel Miller at Cyan as far as you know?

9 A. I would guess so.

10 Q. Have you talked to Joel Miller recently within the
11 last year?

12 A. Yes.

13 Q. Did you ever talk to him about any work done at Cyan?

14 A. No.

15 Q. Have you ever talked about the pinball projects at
16 Cyan with Joel Miller?

17 A. In the last year?

18 Q. Yes.

19 A. No.

20 Q. Ever?

21 A. Conceivably.

22 Q. Do you have any specific recollection of it?

23 A. No.

24 Q. Did you ever have any discussions with Joel Miller
25 in connection with any matter relating to any depositions or
26 other matters in connection with this case that your deposition
27 is being taken in?

28 A. No.

1 Q. Do you know what other projects in 1974 involved
2 the use at Cyan of the Intellec-4 development system?

3 A. I believe they were working on an X-Y, maybe working
4 in '74 on an X-Y monitor that was being driven in some computer
5 circuits and I think the Frenzy game they were working on for
6 Key Games. I think we did two versions, one with a microproces-
7 sor and one without.

8 Q. Do you recall any others?

9 A. Not right now.

10 Q. Do you recall a game called Bar Top Pier?

11 A. Yes.

12 Q. Did that use a microprocessor Intellec control system?

13 A. The original version I don't believe -- the final
14 production version of Touch Me, which is what that was, didn't.
15 I'm not sure if they didn't at some point try the microproces-
16 sor version.

17 Q. How about a project called Reaction Tester, do you
18 ever remember that?

19 A. I believe that is the Frenzy game under another title.
20 Although they did -- that may have been part of the Touch Me
21 thing to do a timing between button pushes. I've got a recol-
22 lection of a timing game but it wasn't really, I don't think,
23 a big project. I mean, it wasn't anything that I particularly
24 remembered being a big deal or game of note.

25 Q. Do you recall who were in charge of those projects
26 with respect to the computer aspects of it?

27 A. I believe the same people, Ron Milner and Steve Mayer.

28 Q. Would Larry Emmons have been working on those, too?

1 A. He was not working on, I believe, the programming
2 necessarily, the microprocessor part of it. His expertise
3 was more hardware. But he used -- he was working on the X-Y
4 monitor project and I believe he did use the computer to draw
5 test patterns on it.

6 Q. Do you have any recollection of seeing the El Toro
7 pinball machine at Cyan at any time during the year 1975?

8 A. I don't specifically remember a time in particular
9 when I visited that it was there, but my recollection is it
10 was sitting out on the porch.

11 Q. In '75?

12 A. Yes.

13 Q. How about in 1976?

14 A. I really -- I mean, the porch turned into a junk
15 -- I mean, there's a lot of stuff out there. I just wouldn't
16 have noted it, I think, at that time.

17 Q. And the same would be true in 1977?

18 A. Yes.

19 Q. Is it true that you have lost your recollection as
20 to where the El Toro was or what condition it was in in 1977?
21 families? MR. KUJAWA: If you ever had a recollection in '77.

22 A. THE WITNESS: I'm not sure I lost it. Because it's
23 just something I wouldn't have noted.
24 MR. KATZ: Q. Do you don't know; you wouldn't know?

25 A. I just wouldn't have noted it.
26 Q. Now, at this occasion at Cyan that you have referred
27 to as the open house, did you recall any specific people present
28 at the occasion which you referred to as the open house?

1 I recall. MR. KUJAWA: When did he recall? You said did he
2 recall. Does he recall now?

3 this. MR. KATZ: Yes, does he recall now.

4 he recall. MR. KUJAWA: Okay. Why don't you ask that question?

5 that. MR. KATZ: Let me strike that since the witness went
6 off to check his equipment.

7 THE WITNESS: No. You asked the question, sir, after
8 I -- I think it was the other way around. I think Mr. Milner

9 said that MR. GOLDENBERG: That is not the reason for striking
10 it. I think the reason for striking it was that it was inart-
11 fully phrased.

12 Q. MR. KATZ: Well, that may be so.

13 THE WITNESS: No, I was sitting here when you asked
14 the whole question. conversation with you?

15 A. MR. KATZ: Q. No. I didn't finish the question.
16 I was in the middle of the question. it was Ron Milner that
17 told A. I'm sorry. asked it being there?

18 Q. At this occasion at Cyan that you have called there.
19 open house, do you recall any specific person who was there
20 that was not an Atari or Cyan employee or a member of their
21 families? He did not tell me initially. I had heard through
22 -- A. No. he I was talking to that had mentioned to me that
23 Mr. Q. Would it surprise you if I told you that Ron Milner
24 told me and Don Welsh in a phone conversation recently after
25 talking to the Defendants' attorneys that he did not recall
26 the converted El Toro ever being in the lunchroom area, the
27 Litton lunchroom area? or for my sanity and memory to be that
28

Q. A. Nothing anyone says would surprise me that much.

1 I mean, if he doesn't recall it, I mean, it's been a long time.

2 Q. Yesterday in your testimony you said that you had
3 this discussion with Ron Milner who had indicated to you that
4 he thought or that he was happy to find someone else who had
5 that recollection of the converted El Toro being played in
6 the lunchroom.

7 MR. KUJAWA: I think that mischaracterizes his testi-
8 mony. A. I think it was the other way around. I think Mr. Bristow
9 said that he was glad that someone else remembered.

10 MR. KATZ: Q. Is that correct? A. I don't think you
11 ever A. Yes.. I believe it was set up through Mr. Goldenberg
12 who Q. I'm sorry. I stand corrected.

13 Was that Ron Milner, are you sure that that was Ron
14 Milner that had the conversation with you?

15 A. Yes. WITNESS: Somebody phoned first and I wasn't
16 part. Q. And are you sure now that it was Ron Milner that
17 told you that he recalled it being there? And then five or
18 ten minutes MR. GOLDENBERG: The question was asked and answered.
19 phoned up MR. KATZ: Q. I just want to be sure that the witness
20 is sure. MR. KATZ: Q. Was this a call on Thursday, July 28th?

21 A. He did not tell me initially. I had heard through
22 -- I forget who I was talking to that had mentioned to me that
23 Mr. Milner had a similar recollection, so in the course of
24 talking to him about some other business I just said to him
25 that I didn't want to really know any of the details of what
26 he said because I didn't think that would be proper, but that
27 I was just feeling better for my sanity and memory that someone
28 else had a similar recollection.

1 Q. Were you telling this to Ron Milner?

2 A. That is correct.

3 Q. When was this?

4 A. A couple of days after, within the week after we
5 had our conference call.

6 Q. Do you recall that conference call that you and I
7 had?

8 A. Yes.

9 Q. Do you recall how many times I called you?

10 A. I believe there was one call. I don't think you
11 ever called me. I believe it was set up through Mr. Goldenberg
12 who phoned me or your office phoned first.

13 MR. GOLDENBERG: No, sir. I don't think I was a
14 party to that conversation.

15 THE WITNESS: Somebody phoned first and I wasn't
16 particularly noting just to say, "Okay, are you there? We're
17 going to be setting up a conference call." And then five or
18 ten minutes later everybody was on the line. I had the operator
19 phoned up and had set up the call.

20 MR. KATZ: Q. Was this a call on Thursday, July 28th?

21 A. I would have to check my calendar, but that sounds
22 about right. I believe it was 9:00 a.m. or so my time.

23 Q. Do you recall who the other person was? Was it me?

24 A. They were all voices on the phone and I really wasn't
25 paying attention. I believe it was you and I know Warren was
26 on the line and someone from Mr. Goldenberg's office, probably
27 Terry Rifkin or --

28 MR. KUJAWA: Don Welsh.

1 MR. KUJAWA: THE WITNESS: Don Welsh, okay.

2 MR. KUJAWA: From Mr. Katz' office.

3 MR. KATZ: Q. That is the conference call that you
4 are talking about?

5 A. Yes.

6 MR. KATZ: There wasn't another conference call that
7 same day that Mr. Goldenberg was on, was there, Warren?

8 MR. KUJAWA: No.

9 MR. KATZ: Q. Then what happened? Was there another
10 conference call besides that one?

11 A. No.

12 Q. Do you recall that there was a conference call that
13 was very short and then it was put over to the next day on
14 Friday that you were waiting for a delivery of something, you
15 were called to home?

16 MR. KUJAWA: That was Milner.

17 MR. KATZ: Q. You don't recall that?

18 A. I only remember one conference call.

19 MR. GOLDENBERG: Mr. Katz, this whole matter of con-
20 ference calls was inquired into very extensively yesterday
21 afternoon. I really think you are abusing all of us by going
22 into it again.

23 MR. KATZ: Q. You said that some other person had
24 told you about Milner's recollection.

25 A. Yes.

26 Q. Who was that other person?

27 A. I'm trying to remember.

28 (Discussion off the record between the witness and

1 Mr. Kujawa.)

2 THE WITNESS: That's it. How do I phrase it?

3 MR. KUJAWA: I will instruct you not to answer the
4 question because it would lead to the revelation of attorney-
5 client privileged conversation.

6 A. MR. KATZ: Q. Do I take it that was Mr. Kujawa that
7 told you?

8 A. MR. KUJAWA: I instruct him not to answer.

9 Q. (Short recess.)
10 MR. KATZ: Q. In the telephone conversation that

11 you had with me do you recall telling me that you would have
12 considered that anyone else in the Litton building other than
13 the Cyan people would have kept what information they found
14 out about Cyan matters confidential?

15 MR. GOLDENBERG: Objection. That question was asked
16 and answered yesterday.

17 A. MR. KUJAWA: Go ahead, you can answer.

18 Q. THE WITNESS: I don't want to -- I'm not going to
19 try and recall my exact words and say yes or no to that, but
20 it's my understanding, it's my belief, that people in the Litton
21 building who were also there were under no secrecy or confiden-
22 tiality agreements but it would not have been in their interest,
23 you know, to really publicize something. I mean that a respect
24 co-tenant was doing. But there was no obligation for them
25 not to.

26 MR. KATZ: Q. Do you recall telling me in that
27 conversation that you believed that you saw Quack at the occasion
28 of this event that you called the open house?

1 A. It's one of the games that I believe was being worked
2 on at the time. I believe it was up there.

3 Q. Do you recall where it was?

4 A. I believe it was probably in the lab.

5 Q. But you are not sure?

6 A. I am not absolutely sure, no.

7 Q. Do you recall any other game on display?

8 A. Where?

9 Q. In the lab or at the same time, that same occasion,

10 or in the lunchroom?

11 MR. KUJAWA: During the open house?

12 MR. KATZ: Q. Yes.

13 A. I believe the second generation of the Frenzy game
14 was being worked on. I believe that was in either the lab
15 or the lunchroom being brutalized again.

16 Q. Do you recall whether the Quack game was operational?

17 A. No.

18 Q. Do you recall seeing anybody play it?

19 A. Nothing specifically.

20 Q. Do you recall that you played it on that occasion?

21 A. Not specifically.

22 Q. Yesterday you indicated that when I talked to you
23 in that telephone conversation I jogged your memory with respect
24 to the Intellec not being standalone. I mean, the El Toro
25 not being standalone when it was in the lunchroom. Is that
26 right?

27 A. Yes, I believe so.

28 Q. And you said that you had indicated to me in the

1 telephone conversation that you had changed your recollection.

2 MR. KUJAWA: I don't think he indicated that at all.

3 I just think he said he thought about it as a result of your
4 telephone conference with him and it jogged his memory.

5 MR. KATZ: Q. Did you say that you had told me in
6 the telephone conversation that your recollection had changed?

7 A. I'm not sure if I used the word "change." I believe
8 how I characterized it was we talked and you jogged my memory
9 and it became clearer.

10 Q. But did you tell me that during the telephone conver-
11 sation that you now then thought that the El Toro was out in
12 the lunchroom with the Intellec connected to it?

13 A. I believe I ended up telling you that my best recol-
14 lection was that the El Toro had the Intellec connected to
15 it when it was in the lunchroom.

16 Q. Because I checked my notes and Mr. Welsh's notes
17 on that conversation and found neither. I found at the end
18 that you still remembered the El Toro was at that open house,
19 the El Toro was in the lab and not -- I mean it was in the
20 Cyan facility and not in the --

21 A. Are you asking me a question, sir?

22 Q. No. I'm just asking you if you can be precise about
23 your recollection of that.

24 MR. KUJAWA: He is being as precise as he can. You
25 have asked him the question a half a dozen times, at least,
26 and his testimony is the same.

27 MR. GOLDENBERG: Mr. Katz, there is little I can
28 do in the course of this proceeding to have it done properly

1 and there is little I can do to control it in the Patent Office.
2 But I do tell you there will come a time when we are before
3 Judge Grady in connection with the trial of this matter and
4 perhaps some other pre-trial matter where I think I can do
5 something about it and it is my intention to do so.

6 ~~and you will~~ I repeat that you are abusing your rights. You are
7 taking unfair advantage of everybody present and I think you
8 are engaged in a most unlawyerlike performance, doing your
9 client no good and doing the legal system no good.

10 ~~of him.~~ MR. KATZ: Mr. Goldenberg, you know, you profess
11 to want to get out of here early but then you burden the record
12 with these speeches. If you will just let me finish, we will
13 be finished early.

14 MR. GOLDENBERG: You show no signs of being finished,
15 sir, but you are repeating and repeating and repeating.

16 MR. KATZ: Q. Do you know, Mr. Bristow, of any docu-
17 ments that would show that the converted El Toro was ever in
18 the Litton lunchroom area as you testified?

19 A. No.

20 Q. I would like to have you make a sketch to the best
21 of your recollection and show on this sketch generally the
22 Cyan facility and where the back porch was located and I would
23 like to ask you some other questions.

24 ~~could he~~ MR. KUJAWA: Mr. Katz, do you have any objection
25 if he just uses Exhibit 1 from his deposition yesterday?

26 A. MR. KATZ: Yes. Because it's not his sketch. That
27 is a sketch drawn by Mr. Schleeter and, as I strenuously objected,
28 was very, very leading. In fact, the evil effect of that leading

1 may never be dissipated.

2 MR. KUJAWA: Well, then, I don't think he should
3 be drawing another sketch if you are going to attach that on
4 the same basis.

5 You said the effect will never be dissipated. What
6 did you mean by that?

7 MR. KATZ: It's probably true. For example, there
8 will always be some effect. But I would still prefer him to
9 make his own drawing without having the other drawing in front
10 of him.

11 THE WITNESS: Okay.

12 MR. KATZ: Could we mark this Bristow Deposition
13 Exhibit 2.

14 (Sketch made by the witness
15 was marked Bristow Deposition
16 Exhibit 2 for identification.)

17 MR. KATZ: Q. What have you depicted?

18 A. I have depicted just in the rough form the hallway
19 coming in from the entrance.

20 Q. Would you mark the arrow 1.

21 A. All right. And the corridor in front of the space
22 that the Cyan people had the entry into the main space --

23 Q. Was there a doorway there?

24 A. There is a door roughly where the copier and the
25 coffee machine was.

26 Q. Along the right-hand side?

27 A. I believe so. The back of the entrance was where
28 Jody Sperry's desk was. Over to the right as you walked in
was where Steve Mayer and I believe Ron Milner ended up.

1 Q. And that was in 1974?

2 A. I believe so.

3 Q. And they were both in the same office, Mayer and
4 Milner?

5 A. I believe I said other people I was sure were there
6 were Mayer and Emmons but Milner joined somewhere around that
7 time frame and when he joined he was located in a corner where
8 Jody Sperry's space was. There was a small room to the left
9 of the coffee area. It may have been the lab area to the left
10 and then another lab space behind it where Larry Emmons' office
11 is and where roughly the porch space is.

12 A. As you walked in the entry corridor, if you made
13 a right from the Cyan space, the lunchroom area was immediately
14 to your left.

15 Q. In 1974 who was in this space to the right? This
16 is a doorway here?

17 A. Yes, somewhere I think past the copier and coffee
18 machine was the doorway. I'm not sure who was in there.

19 Q. Did you ever have occasion to be in that room?

20 A. Oh, yes, I'm sure.

21 Q. But you have no specific recollection of it?

22 A. No. The room -- Emmons and Mayer's and Milner's
23 spaces, they hardly ever moved around. This room at various
24 times has been used for demonstrations, for storage, and I
25 think people were in there at various times. It's hard to
26 say who was in it at that time.

27 Q. In 1974 in this lunchroom was that location as best
28 you recall where the Coke machine is?

1 A. Yes. As I remember, it was in there, and I believe
2 it was like on the left as you entered.

3 Q. And what is this thing that you marked with an asterisk?

4 A. That's where as I remember the pinball machine was
5 set up, was on the right-hand side as you entered the lunchroom
6 area.

7 Q. Was there anything else located in the lunchroom
8 area to the best of your recall normally?

9 A. They had various games, old prototypes. I believe
10 there were some chairs. There was nothing really spectacular.

11 Q. Do you recall any tables in there?

12 A. I'm not sure whether there were any tables or not.

13 Q. In '74 you don't recall? facility he had there if

14 A. They weren't high on my list.

15 Q. You never had occasion, you said, to eat in there?

16 A. No. after table and desk and light tables.

17 Q. When you walked into the space, the Cyan space, through
18 the doorway, what was to your left, the laboratory?

19 A. There's actually almost three spaces because immediately
20 to the left there was like an area that also served at various
21 times for housing various people and equipment. Then you walked
22 through more like a door and then the first -- the pinball

23 Q. Where is the doorway? 14 4?

24 A. Right here roughly, #2. It was more of a closed-off
25 area. There was a further passage into a secretary's ever

26 Q. Where was the doorway to get to the porch?

27 A. I believe it was at this end, #3.

28 Q. And where was the doorway to get into Emmons' office?

1 A. Right here, #4. So 2 of them is that right?

2 Q. Towards Jody's desk? asked again, don't you want to say

3 A. Yes. -- A. Yes.

4 Q. Could you indicate where that would be and put a
5 little mark. Did you have any responsibility for the pinball

6 A. See that 4 right there?

7 Q. Could you put a little mark? Was it generally in
8 there? whose responsibility was that?

9 A. Right there. I believe Al Alcorn, Lloyd Warden.

10 Q. Now, do you recall anybody in this space right below
11 Emmons' office? by Games and went over to Atari? when you

12 A. At some point I believe Ed Schleeter was there.

13 Q. Do you know what kind of facility he had there for
14 working? And that was through what year, 1975?

15 A. He has always been a draftsman and a PC artist so
16 he has the drafting table and desk and light tables. --

17 Al Alcorn MR. KUJAWA: I think so the record will be clear
18 when you said "this space" -- the game area.

19 Q. MR. KATZ: Q. You can mark it #5. -- yes, #5, was

20 A. All right. or any kind of wall between the entrance

21 Q. Where do you recall with respect to your diagram,
22 Bristow Exhibit 2, you had seen the converted El Toro pinball
23 machine at various times during 1974?

24 A. Well, there was the lunchroom which was #6 and I
25 believe in the lab here #7 and I'm not sure if it was ever
26 -- it may have been out in this area also (indicating).

27 Q. Marked #5? really.

28 A. Marked #5. recall any kind of partition in the

1 Q. But you are not sure of that; is that right?

2 A. I just don't -- they moved equipment around as they
3 worked on it, you know.

4 Q. In various locations. During the time that you were
5 at Key Games did you have any responsibility for the pinball
6 project?

7 A. No.

8 Q. Whose responsibility was that?

9 A. I'm not sure. I believe Al Alcorn, Lloyd Worman.

10 Q. Did you have responsibility for the pinball project
11 after you left Key Games and went over to Atari? Then you
12 became responsible for it?

13 A. For a time.
14 Q. And that was through what year, 1975?

15 A. Even after I got to Atari it very quickly became
16 a full-time project in the Los Gatos area and it really --
17 Al Alcorn got charged with the honchoing the pinball portion
18 of it while I worked on the video game area.

19 Q. Now, when you talked about this area here, #5, was
20 there any partition or any kind of wall between the entrance
21 area and that space #5?

22 A. I'm not sure.

23 Q. In 1974?

24 A. I'm not sure.

25 Q. Did you ever recall any partitions there or partial
26 walls or -- do you think if it was there you would have recalled

27 A. Not particularly.

28 Q. Do you ever recall any kind of partition in the

entranceway at all, I mean off of this area -- what would we call this area below Jody Sperry's area?

A. How about the lobby?

Q. The lobby area.

A. Not particularly.

Q. Were there glass windows or open spaces looking into the office where Mayer was?

A. Yes. There may have been some.

Q. Where was that? What was that?

A. They had windows facing the outside.

Q. But how about in the interior wall partition?

A. Not that I remember.

Q. Did you recall any windows in the interior partitions of Mayer's and Milner's office?

A. No.

Q. How about Larry Emmons' office?

A. No.

Q. And how about this space here on the other side from the coffee and the --

A. The one I will label #8.

Q. Labeled #8.

A. No.

Q. And you testified you have no recollection of ever having a partition here between #5 and the reception area?

A. Yes. There may have been. I just don't remember.

Q. Do you think if it was there you would have recalled it in 1974?

A. I don't know.

1 Q. Now, you mentioned snacks at this occasion which
2 you referred to as the open house. Where were those snacks
3 being served, do you recall?

4 A. I'm not sure if they were served per se as just being
5 like chips or some stuff in a bowl to pick up.

6 Q. Were they present as best you can recall?

7 A. As best I can recall there were some around the coffee
8 and the copier thing. There may have been some scattered in
9 bowls, in little piles, about, you know.

10 Q. But people were working when you went through there,
11 is that correct, at Cyan on that occasion? The employees of
12 Cyan were busy?

13 A. During the review portion, yes.

14 Q. Were there any snacks being served in the lunchroom
15 area?

16 A. I don't remember.

17 Q. Or bowls about?

18 A. I don't know.

19 Q. After this review portion that you just mentioned,
20 then what happened on that occasion?

21 A. I believe there was some socialization, some mixing.
22 I'm not sure whether we went out to eat like a picnic or
23 anything. I'm not really clear on that part. Then we left.

24 Q. Then you went back to --

25 A. Down here, down to the Bay Area.

26 Q. At the end of the day?

27 A. Yes.

28 Q. And you returned with Joe Keenan?

1 A. I believe so. I think I said four of them specifically
2 depending on whose plane I was in. I rode up, you know, not
3 necessarily with Joe, but usually.

4 Q. I wanted to clarify something that you stated yester-
5 day. After you testified about the telephone conversation
6 with Rifkin during the CES show in June of this year and you
7 talked to Skip Paul, was that within a few days after the Rifkin
8 call, the call to Skip Paul?

9 A. I believe actually I never said I talked with Skip
10 Paul. I phoned Skip Paul's office. I believe Mr. Rifkin --
11 I didn't actually talk with Skip. I phoned his office.

12 Q. Who did you talk to?

13 A. His secretary.

14 Q. And who else?

15 A. One of his --

16 Q. (Discussion off the record between the witness and
17 Mr. Kujawa.)

18 MR. KUJAWA: You are asking what would amount to
19 a question about a privileged communication between --

20 MR. KATZ: I want to know with whom, that is all.
21 I'm not going to ask the subject of the discussion. That is
22 not the question. I am merely talking about with whom. I
23 haven't established that he has even talked to an attorney.
24 So far he has only talked to a secretary.

25 MR. KUJAWA: Did you talk to a staff attorney?

26 THE WITNESS: Yes. When I talked with the secretary,
27 Skip was out and she said they would have someone phone me
28 back. One of the staff phoned me and I didn't particularly

1 note who it was. I just explained the problems.

2 MR. KATZ: Q. Was it Mike Sherrard, do you recall?

3 A. I said I don't recall.

4 Q. Well, I may prompt your recollection. Ken Neusbacher?

5 A. I don't know.

6 Q. Did the person that called you indicate -- was it
7 a man or a woman, could you tell?

8 A. I really don't know.

9 Q. Did you have any understanding as to whether you
10 were talking to a man or a woman when the member of the staff
11 called you back?

12 A. I'm sure I knew whether it was a man or a woman when
13 they phoned.

14 Q. But now you don't recall?

15 A. I don't know, correct.

16 Q. And you don't have any recollection of who it was?

17 A. No.

18 Q. Did you make a note of it?

19 A. No.

20 Q. Did you know that the person who called you was an
21 attorney?

22 A. As I remember, it was a name I recognized and it
23 was in response to a phone call that I had placed, so I don't
24 know for sure if it was an attorney.

25 Q. What do you mean you recognized? As what? A name
26 you recognized, you said.

27 A. Yes.
28 Q. As what? Yesterday you said that after you
talked to Skip Paul's office you then received

1 A. As being someone from Skip Paul's office. I don't

2 Q. What did they say to you? Mr. Connelly testified that

3 he was. MR. KUJAWA: I instruct the witness not to answer.

4 MR. KATZ: I don't think he has established that
5 any attorney called him. conversation with Mr. Rifkin on the

6 MR. KUJAWA: I think if there is, it's unlikely that
7 it was other than an attorney that returned his call. He testi-
8 fied he talked to his secretary and that he got a call back.
9 Obviously it wasn't the secretary. that was the call within the

10 MR. KATZ: Q. And you don't recall who that was
11 that called you back? to answer the question that I was

12 A. I No. have another call from Mr. Paul's office saying

13 Q. How long was that call approximately? they

14 A. A couple of minutes. about

15 Q. Were there any further calls with Skip Paul or Skip
16 Paul's office after that before you received the next call
17 from Mr. Rifkin that you testified about? by that is that

18 A. I don't believe so.

19 Q. And when did this occur? at that time.

20 A. When what?

21 Q. The call from Skip Paul's office. call you that was

22 A. Wait, sir, please. Could you go back to the previous
23 questions? I think I may have misunderstood. with

24 (Record read.)

25 THE WITNESS: Well, what is unclear is what subsequent
26 call from Mr. Rifkin are you talking about?

27 MR. KATZ: Q. Yesterday you said that after you
28 talked to Skip Paul or Skip Paul's office you then received

1 another call from Rifkin and, in fact, you indicated that it
2 was Rifkin and Goldenberg, but then Mr. Goldenberg denied that
3 he was on the phone.

4 MR. GOLDENBERG: Well, no, Mr. Katz. I have been
5 a party to a telephone conversation with Mr. Rifkin on one
6 end and Mr. Bristow on the other.

7 MR. KATZ: I see. I understood yesterday --
8 MR. GOLDENBERG: No, sir. Well, if you did, it's
9 because you weren't listening. That was the call within the
10 past couple of weeks shortly before this deposition commenced.

11 THE WITNESS: To answer the question that I wanted
12 reread, I did have another call from Mr. Paul's office saying
13 they had gotten ahold of Skip and that's all I'm going to say
14 about the call.

15 MR. KATZ: Q. But you discussed other things which
16 you are not going to tell us, right, because of the attorney-
17 client privilege objection that your attorney made? Is that
18 correct? MR. KUJAWA: Yes. I was counseling my client.

19 MR. KUJAWA: You can answer yes or no. None also as
20 far as you. THE WITNESS: Yes.

21 MR. KATZ: Q. When did this last call you just men-
22 tioned occur? MR. KUJAWA: Yes. I was counseling my client.

23 MR. KUJAWA: You mean the call from Rifkin?

24 MR. KATZ: Q. No. The second call from Skip Paul's
25 office. Did Mr. Rifkin ask you questions in that telephone
26 call? A. A couple of days or a day before the Rifkin call.

27 Q. This was the Rifkin call and then that was a conference
28 call; right? MR. KUJAWA: Yes. I was counseling my client.

1 A. I'm not sure it was a conference call or whether
2 it was just from their office with two extensions to mine.

3 Q. When did this Rifkin call occur?
4 of 1974. MR. GOLDENBERG: Which Rifkin call?

5 MR. KATZ: Q. The one he just mentioned, the call
6 on Monday. primarily the pinball and what was going on up at

7 A. I believe like a week before the conference call
8 we had when you were involved.

9 Q. And in that call was Mr. Goldenberg on the phone
10 with you and Mr. Rifkin? in that you recalled the El Toro project

11 A. I believe they were.

12 Q. MR. KUJAWA: Just a second. recalled that you saw the
13 -- did you (Discussion off the record between the witness and
14 Mr. Kujawa.) believe we discussed that function.

15 MR. KATZ: I would like the record to indicate that
16 Mr. Kujawa appeared to initiate a conference with the witness
17 at that point.

18 Q. MR. KUJAWA: Yes. I was counseling my client. the
19 El Toro MR. KATZ: Q. Was Mr. Kujawa on the phone also as
20 far as you know? as I did.

21 A. No. did you tell him that when you saw it it was
22 in a Q. Was there any attorney for Atari on the phone as
23 far as you know? as I did.

24 A. No. you tell him that you saw it in the lunchroom
25 on a Q. Did Mr. Rifkin ask you questions in that telephone
26 call? A. I'm not sure whether he asked that particular question
27 or A. Yes.

28 Q. What questions did he ask you? asked at the open house.

1 A. I don't remember specifically any particular question.

2 Q. What do you recall generally?

3 A. We discussed my recollection as far as the events
4 of 1974.

5 Q. Events in regard to what?

6 A. Primarily the pinball and what was going on up at
7 Grass Valley and Atari engineering on the pinball project.

8 Q. What did you tell him?

9 A. Basically the same thing I have told everyone else.

10 Q. Did you tell him that you recalled the El Toro project?

11 A. I believe I did.

12 Q. Did you tell him that you recalled that you saw the

13 -- did you discuss anything called open house at Cyan?

14 A. I believe we discussed that function.

15 Q. What did you say about it?

16 A. The same I believe that I have said to everyone who
17 has asked.

18 Q. Did you tell him that you recalled that you saw the
19 El Toro at that function at Cyan?

20 A. I believe I did.

21 Q. And did you tell him that when you saw it it was
22 in a converted condition to a microprocessor control?

23 A. I believe I did.

24 Q. Did you tell him that you saw it in the lunchroom
25 on that occasion at the open house?

26 A. I'm not sure whether he asked that particular question
27 or not.

28 Q. Did he ask you where it was located at the open house?

1 A. I'm not sure. I mean, I didn't keep a record of
2 what he -- I can't recollect the whole conversation from memory.
3 I mean, I can only go on the basis of the fact that people
4 ask me questions and I answered them. I can't tell specifically
5 which questions he asked and which he didn't. It's an impossible
6 thing for me to do.

7 Q. Did you tell him in that conversation that you saw
8 the El Toro in the lunchroom?

9 A. Sir, I really can't answer and tell you exactly what
10 questions he asked me and which I answered. I can only recall
11 that we discussed it and I was answering questions based on
12 the facts as I understood them. If anyone asked me the same
13 questions they were going to get the same answers. I can't
14 recall the specific questions.

15 MR. KUJAWA: Let's stop asking the same questions
16 over and over again. He says he doesn't recall specific ques-
17 tions and answers.

18 MR. KATZ: I asked different questions.

19 Q. MR. KUJAWA: But they are all directed to the same
20 principle. That is: Did you tell him this, did he ask you
21 that, did you tell him this. He says he doesn't have any
22 specific recollection of the conference of the specific questions
23 and answers.

24 MR. KATZ: I am not asking for specific questions
25 and answers.

26 MR. KUJAWA: You are, so get off it.

27 MR. KATZ: Q. Was there any discussion in that tele-
28 phone conversation about the El Toro being anywhere other than

1 in the Cyan facility in the Litton building?

2 on A. We discussed the pinball situation. I'm not sure
3 if that subject was one covered or not, particularly asked
4 that way. MR. KATZ: Q. Did he ask you any questions about it?

5 the Q. Were you asked any questions by Mr. Goldenberg in
6 that discussion? A. Mr. Katz, you have had some questions

7 to A. I may have been. I don't think you should

8 continue Q. You don't recall? I will just ask the witness to

9 tell A. My guess is they were both in the discussions so

10 I guess I was. KATZ: Q. Did he ask you anything about the

11 Delta Q. Did you have any discussion concerning what other
12 people said about the El Toro project? take a short brief break.

13 A. No. KATZ: Let the record note that the witness is

14 leave Q. During 1974? his counsel.

15 A. No. In contrast to when you asked me in our discus-
16 sion, as I remember, where you were telling me where what if
17 I told you Ed Schleeter says that, I had no ^{prompting} problem from Mr.
18 Goldenberg's office on what anybody said. forward.

19 Q. And you don't recall when you said it right now?

20 It's A. What? an inquiry.

21 Q. I asked you whether you said anything about seeing
22 the El Toro in the lunchroom at Cyan in the Litton building
23 and I haven't been able to get an answer to that question.

24 to go -- MR. KUJAWA: It's because he doesn't specifically
25 recall. (Discussion off the record.)

26 THE WITNESS: If I was asked if I had seen it there,
27 I would have said it. Q I just don't specifically remember the
28 questions asked and they didn't. The general subject area

was what was going on with the El Toro project and the goings on at Grass Valley, Atari, you know, Key Games. But I can't characterize particularly what he asked me or didn't ask me.

I'm still MR. KATZ: Q. Did he ask you any questions about the Delta Queen project?

yes. MR. KUJAWA: Mr. Katz, you have had ample opportunity to explore the subject matter and I don't think you should continue. If you do continue I will just ask the witness to follow me out of the room.

A. MR. KATZ: Q. Did he ask you anything about the Delta Queen?

Q. MR. KUJAWA: We are going to take a short brief break. any MR. KATZ: Let the record note that the witness is leaving the room with his counsel.

A. MR. KUJAWA: That is inaccurate. We haven't left the room. Do you recall any such discussions?

A. MR. KATZ: You left the deposition table. You are interrupting this deposition from going forward.

Q. MR. GOLDENBERG: This is hardly a deposition, sir. It's far more of an inquisition.

the El Toro MR. KUJAWA: I agree. converted to microprocessor control w. MR. KATZ: Well, that's understandable.

building? MR. KUJAWA: Let the record show the witness had to go -- entered the bathroom.

(Discussion off the record.)

(Short recess.)

MR. KATZ: Q. Was there any discussion about whether there was any microprocessor-controlled pinball machine located

anywhere in the Litton building?

MR. GOLDENBERG: Is this the Rifkin --

MR. KATZ: Q. In the telephone discussion. Yes.

I'm still on that subject.

A. I think that was the subject area that was discussed, yes.

Q. And was there any discussion about whether such a pinball machine with a microprocessor control was located anywhere other than in the immediate Cyan facility, ever?

A. There may have been. I don't specifically remember discussing it or not.

Q. Did you have any discussion about whether you saw any self-standing or free standing or standalone microprocessor-controlled pinball machines at Cyan?

A. There may have been.

Q. Do you recall any such discussions?

A. I don't specifically recall whether the subject was discussed or not.

Q. Did you tell Mr. Rifkin or Mr. Goldenberg in that telephone call that you believed or had any understanding that the El Toro pinball machine as converted to microprocessor control was ever in the Litton lunchroom area at the Litton building?

MR. GOLDENBERG: Whether or not the machine was in the Litton.

MR. KUJAWA: Don't answer the question.

I instruct the witness not to answer. You are asking the same questions over again. You have asked that same question.

He says he has no specific recollection of the actual conversation or place.

1 MR. KATZ: I'm not talking about the actual conversa-
2 tion and that question isn't limited to the actual words that
3 were used. If you are standing on the hypertechnicality like
4 that to refuse to answer the question, then I think that is
5 what is really protracting this thing.

6 Q. I am entitled to an answer to that question. I think
7 that I am entitled to it in all fairness and under every rule
8 of civil procedure I am entitled to that because in view of
9 the circumstances and the suspicious nature of things which
10 have occurred, I think that you are just aggravating the situa-
11 tion, Warren, by insisting at this point to not let him answer
12 the question. you ever discuss this conversation that you had
13 with Ref. MR. KUJAWA: He has tried as best he can to answer by
14 the question. You keep asking the same questions over and
15 over again. If you don't get on to another subject matter
16 I'm going to terminate this deposition.

17 A. MR. KATZ: Q. Could you answer that question?

18 Q. MR. KUJAWA: No.

19 A. MR. GOLDENBERG: Mr. Katz, my specific recollection
20 is that that question was asked and answered. with Mike Sperrai

21 A. MR. KATZ: I don't think that specific question was
22 answered. within a day or so?

23 A. MR. GOLDENBERG: Whether or not the machine was in
24 the Litton lunchroom was asked and answered within the past
25 few moments. The record will show that.

26 A. MR. KUJAWA: Sid, I am requesting that you get on
27 to another subject matter. Otherwise I am going to take the
28 witness home.

MR. KATZ: Q. Do you refuse to answer the question?

A. Yes.

Q. How long did this conversation take with Rifkin and Goldenberg?

A. On the order of half an hour.

Q. Did you take any notes?

A. No.

Q. Did you subsequently write up any notes or memorandum or any other documents relating to this telephone discussion with Rifkin and Goldenberg?

A. No.

Q. Did you ever discuss this conversation that you had with Rifkin and Goldenberg or the substance of it with anybody else?

A. Yes.

Q. With whom?

A. I believe with Mike Sherrard.

Q. Anyone else?

A. I may have phoned Warren also.

Q. When did that occur, the discussion with Mike Sherrard?

A. I don't particularly remember.

Q. Within a day or so?

A. Subsequently, a day or so after.

Q. And today do you have any recollection of discussing it with Warren?

A. I don't particularly remember discussing it with him. We talk frequently so it's hard to single out a particular phone call.

1 MR. KUJAWA: He has testified he may have.

2 MR. KATZ: Q. Did you discuss it with anybody else
3 other than Mike Sherrard or possibly Warren Kujawa?

4 A. No.

5 Q. And that was this discussion with Rifkin and Goldenberg
6 took place to the best of your recollection approximately a
7 week or about a week before your telephone discussion with me?

8 A. Yes. On the order of a week. It could have been
9 less than a week. I don't think it was more.

10 Q. Do you recall what part of the week it was in?

11 A. No. Not sure whether it was Terry or Mel.

12 Q. Did you have any other discussions with Rifkin or
13 Goldenberg between that time?

14 A. And what? I don't say it was a week after the call.

15 Q. And the discussion with me?

16 A. I don't believe so.

17 Q. Did you have any discussion with Rifkin or Goldenberg
18 subsequent to that time? You also don't recall whether it

19 was A. Yes. Called you or Goldenberg?

20 Q. When was that?

21 A. I believe after our conversation regarding when would
22 be a good time to schedule the deposition.

23 Q. You mean after your conversation with me?

24 A. After my conversation with you.

25 Q. When was that?

26 A. Within a week or so after we had our conversation,
27 a couple of days to a week or something like that.

28 Q. Well, you had your discussions with me on July 29th.

1 That is a Friday, as far as I know. And you're saying that
2 that was within a week after that?

3 A. I believe so. Obviously -- what is the date today?

4 Q. The 6th.

5 A. I would say it was definitely within a week.

6 Q. When did that occur, what day of the week?

7 A. I don't particularly remember.

8 Q. You don't remember? You have any disclosure with

9 any? A. No. I make a lot of calls and receive a lot.

10 Q. Who called you, Rifkin?

11 A. I'm not sure whether it was Terry or Mel.

12 Q. So it was a week after the call with me and you don't
13 recall whether it was -- John Lynch, do you recall having any

14 A. Sir, I did not say it was a week after the call.

15 Q. Within a week. I recall.

16 A. Yes. Atari ever been cooperating with one side rather
17 than Q. I know you are not certain as to when it occurred.

18 But within the week. And you also don't recall whether it
19 was Rifkin that called you or Goldenberg?

20 A. Correct. He ever mentioned anything to you concerning

21 Q. Was that conversation strictly concerning the scheduling
22 of this deposition?

23 A. Yes. Cooperation with one set of counsel rather than

24 Q. Did they discuss anything else with you?

25 A. I don't believe so.

26 Q. Did they indicate that they had spoken to any counsel
27 for Atari in that conversation?

28 A. I'm not sure whether they did or didn't. I believe

1 one of my concerns, whether it was mentioned at that conversation
2 or through my -- I'm not sure -- was just to make sure whether
3 there was going to be some counsel for Atari at the deposition.
4 I would guess it would have been appropriate for me to ask
5 that when we were scheduling things to find out who was going
6 to be up there with me, or up here with me as the case may be.

7 Q. Other than these discussions with me and with Mr.
8 Goldenberg and Mr. Rifkin, did you have any discussions with
9 any other attorneys representing parties in connection with
10 this matter?

11 Q. MR. KUJAWA: Who are the other parties?

12 A. MR. KATZ: Q. Gottlieb and Rockwell International.
13 Mr. Wayne Harding or Mr. John Lynch, do you recall having any
14 discussions with those people? *At the present time?*

15 A. No. No, I don't recall.

16 Q. Has Atari ever been cooperating with one side rather
17 than another in connection with these proceedings as far as
18 you know? *At the present time.*

19 A. No. *Has he discussed anything of that nature with*

20 you? Q. Has anyone ever mentioned anything to you concerning
21 cooperation with one of the parties rather than another?

22 A. No. *KUJAWA: Are you planning to use Atari, Counsel?*

23 Q. Or cooperation with one set of counsel rather than
24 another? *It's inappropriate.*

25 A. No. *KUJAWA: I think the question is totally inappropriate.*

26 Q. Have you ever heard anybody discuss whether Atari
27 was cooperating with or allied with Williams or Gottlieb in
28 connection with this matter? *to do with myself.*

1 A. I believe I have heard it from the Bally counsel
2 during depositions and arguments among the attorneys at various
3 times. But that's about it.

4 Q. No one else has ever mentioned that to you; is that
5 correct?

6 A. No.

7 Q. Have you ever discussed this subject with Steven
8 Mayer as to whether you should cooperate or not cooperate with
9 any particular attorneys in connection with this matter?

10 A. No.

11 Q. How about with Larry Emmons?

12 A. No.

13 Q. Are you aware of any lawsuits that are either pending
14 or threatened between Atari and Bally at the present time?

15 A. Not particularly.

16 Q. Do you have any general understanding?

17 A. No. It's not something I am kept aware of and I
18 don't really care.

19 Q. No one has discussed anything of that nature with
20 you?

21 A. No.

22 MR. KUJAWA: Are you planning to sue Atari, Counsel?

23 MR. KATZ: I am not going to answer that question.
24 I think it's inappropriate.

25 MR. KUJAWA: I think the question is totally inappro-
26 priate because it has nothing to do with the subject matter
27 you are supposed to be examining this witness about.

28 MR. KATZ: It has to do with myself.

1 MR. GOLDENBERG: I think courtesy might require an
2 answer but, of course, that is lacking from these proceedings
3 so it is certainly too late for it to come in now.

4 MR. KATZ: Q. Do you know who at Cyan during 1974
5 was responsible for the Intellec system, had responsibility
6 for that Intellec-4?

7 A. I don't know for sure who it was. My belief is that
8 Steve Mayer was.

9 Q. Would that same thing be true of the teletype equip-
10 ment?

11 A. Yes.

12 Q. Do you know if the Intellec or the teletype equipment
13 was ever left in the lunchroom facility, the Litton lunchroom
14 area in the Litton building, overnight?

15 A. I don't know.

16 Q. During 1974?

17 A. I still don't know.

18 Q. You don't have any recollection of anything one way
19 or the other in that regard?

20 A. I never spent the night there so I don't know whether
21 it was there all night. It's very simple.

22 Q. And you never saw anybody putting it out in the
23 morning?

24 A. No, because I never got there that early in the
25 morning. We had to fly up or drive up or something.

26 MR. KATZ: Let's take a short break. I am just about
27 at the end.

28 (Short recess.)

1 MR. KATZ: Q. Mr. Bristow, did you ever have any
2 discussions with anybody about how to answer questions in this
3 deposition?

4 A. No.

5 Q. Including your attorneys, any discussions with the
6 attorneys about how to answer questions in this deposition?

7 A. The only discussions or instructions I have ever
8 had on how to answer questions is to tell the truth.

9 Q. Did you discuss your testimony with anyone, testimony
10 that you were going to give at this deposition, with anyone
11 including your attorney?

12 MR. KUJAWA: Well, I don't think he should answer
13 that question with respect to his attorneys on attorney-client
14 privilege.

15 You can ask him whether he talked to anybody other
16 than his attorneys.

17 Don't answer the question as it is presently framed.

18 MR. KATZ: Q. And you accept that instruction from
19 your attorney?

20 A. Of course.

21 Q. Did you discuss testimony that you gave or were going
22 to give at this deposition with anyone other than your attorneys?

23 A. No.

24 Q. In any of your conversations with Mr. Rifkin or Mr.
25 Goldenberg did they characterize the activities of Bally or
26 Bally's attorneys in any way to you?

27 A. No.

28 Q. Did they discuss Bally's activities at all in connec-

1 tion with this matter?

2 A. They discussed the status of some sort of status
3 of the litigation and why this deposition was to be taken.

4 Q. What did they tell you?

5 A. I don't remember the exact --

6 Q. I don't mean exact words. Just what was the substance
7 of what they told you.

8 A. There was some activity in the patent front and that
9 they wanted to take another deposition and I don't remember
10 the exact status of, you know, the suit and exactly where it
11 was and what courts or what happens next. But it was explained
12 to me. I just --

13 Q. By them? My question was as to what they told you.

14 A. I don't know exactly what they said as far as the
15 status on it. It was by way of explanation as to why the depo-
16 sition was to be taken and why I had to do it so quickly because
17 it wasn't really convenient for my schedule. But I did make
18 time for it and there was an explanation as to why it was so
19 quick. There was some time deadline on litigation.

20 Q. Did they say anything else about it?

21 A. I don't know exactly, you know, the details of what
22 else they said. But, you know, that's the characterization
23 of the conversation. It was sufficient to convince me that,
24 yes, I should make the time and make myself available.

25 Q. What was the time constraint that they told you that
26 they had?

27 A. I'm not sure who had it, but there was a time
28 constraint and that I should, you know, make an effort to make

1 the time so I could be deposed. So I did.

2 Q. Have you ever seen any papers in connection with
3 this particular proceeding other than the depositions of the
4 Atari people?

5 A. I have never seen any of the Atari people's depositions
6 other than mine.

7 Q. Have you ever seen any declarations or affidavits
8 filed by the Atari people in connection with this matter?

9 A. Not that I have read through. They may have been
10 piled on someone's desk. If Warren has them piled on his desk
11 you couldn't even see them. He could hide a moose on his desk
12 and you could never see it.

13 Q. But you have never read any papers?

14 A. No.

15 MR. KATZ: That is it.

16 REDIRECT EXAMINATION BY MR. GOLDENBERG

17 MR. GOLDENBERG: Q. Mr. Bristow, in 1974, sir, did
18 you have any understanding of the way the teletype and the
19 Intellec microprocessor interacted with each other?

20 A. Yes.

21 Q. Could you state what your understanding was at that
22 time?

23 A. The teletype was used as an input-output device for
24 the Intellec. It was used to load programs and type in commands
25 for the computer and have outputs printed out from the computer.

26 Q. You spoke in response to questions from Mr. Katz
27 about the Intellec loaded with the program crashing. What
28 did you mean by that, sir?

1 A. As I remember it, the Intellec did not have a battery
2 back-up memory and it didn't have a disc drive or tape drive
3 so that if you turned off the electricity, turned off the power,
4 the program that was stored in the computer disappeared. So
5 when you turned the computer on you would have to reload the
6 program.

7 Q. If the program had been reloaded was this done through
8 the teletype?

9 A. Yes.

10 Q. If the program had been loaded into the computer
11 and there was no crash and the computer or Intellec was connected
12 up to the El Toro game, did you need to operate the teletype
13 each time you wanted to play the game?

14 A. Not as I remember it. You just pushed the start
15 button on the pinball machine.

16 Q. So assuming no crash and the power had not been inter-
17 rupted, it was possible to play the game without operating
18 the teletype?

19 A. Correct.

20 MR. GOLDENBERG: I have no further questions.

21 MR. KATZ: None.

22 One thing: I wanted to discuss some scheduling because
23 now here we are on Friday after going through a good part of
24 a week of depositions. We have --

25 MR. KUJAWA: Do you need the witness for this?

26 MR. KATZ: No. We are canceling the deposition of
27 the Litton brothers that we noticed. It was for this coming
28 Tuesday, August 10, 1982.

1 MR. GOLDENBERG: All right. So that leaves Mr. Worman
2 and Mr. Cox.

3 MR. KATZ: Yes, as far as I know. I don't have the
4 schedule.

5 MR. GOLDENBERG: Well, if you don't know how in the
6 hell am I supposed to know?

7 MR. KATZ: At this particular moment.

8 MR. GOLDENBERG: Am I correct, sir --

9 MR. KATZ: As far as I know, yes.

10 Is that right?

11 MR. SCHNAYER: That's correct.

12 MR. GOLDENBERG: How about signature before any notary?

13 MR. KATZ: We will have signature before any notary,
14 that is okay. That is the practice we have been following.

15 MR. GOLDENBERG: All right. You are taking custody
16 of that one exhibit you marked, I take it.

17 MR. KATZ: All right.

18 --o0o--

19
20 
21 (Signature of witness)